

Docket No.: US040129

REMARKS**I. INTRODUCTION**

Claims 1, 12, and 15-16 have been amended. No new matter has been added. Thus, claims 1-17 are pending in the present application. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. THE SPECIFICATION OBJECTIONS SHOULD BE WITHDRAWN

The disclosure is being objected to because it contains an embedded hyperlink. (See 08/20/08 Office Action, p. 2). The disclosure is also being objected to because a serial number for a U.S. Patent Application is not filled in. (See 08/20/08 Office Action, p. 2). The specification has been amended to correct these issues, thus, Applicants respectfully submit that the specification objections should be withdrawn.

III. THE CLAIM OBJECTIONS SHOULD BE WITHDRAWN

Claims 15 and 16 are being objected to because of the use of the word "forth" instead of "fourth", and the use of the phrase "and/or." (See 08/20/08 Office Action, p. 2). Claims 15 and 16 have been amended, thus, Applicants submit that the claim is now allowable and the objection should be withdrawn.

IV. THE 35 U.S.C. § 112 REJECTIONS SHOULD BE WITHDRAWN

Claims 12 and 16 stand rejected under 35 U.S.C. § 112 as being indefinite or for failing to particularly point out the claimed subject matter which the Applicants regard as the invention. (See 08/20/08 Office Action p. 2-3). Claims 12 and 16 have been amended, thus, Applicants submit that the claims are now allowable and the 35 U.S.C. § 112 rejection should be withdrawn.

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V. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

Claims 1-2, 4-8, 10-14, and 17 stand rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent Application No. 6,230,047 to McHugh (hereinafter "McHugh") in view of U.S. Patent Application No. 6,852,068 to Ogawa (hereinafter "Ogawa"). (See 08/20/08 Office Action, p. 4-8).

Claim 1 recites "[a]n audio interval training device, comprising: a sensing unit to obtain a parameter of a user in physical exercise; a memory to store a plurality of audio signals, each having a predetermined tempo value; and a processing unit configured to (1) receive the parameter from the sensing unit, (2) receive a first and second target parameter value, (23) select a first and second audio signals having a respective tempo corresponding to the first and second target parameter values, (4) *rendering the first audio signal to the user at least until the processor determines the parameter has achieved the first parameter value*, (5) *rendering the second audio signal to the user at least until the processor determines the parameter has achieved the second parameter value*, and (6) *alternating the rendering of the first and second audio signals according to (4) and (5)*.

The Examiner acknowledges that McHugh does not disclose the alternative rendering of the audio signal. (See 08/20/08 Office Action, p. 4). However, the Examiner asserts that Ogawa teaches alternately rendering. (See 08/20/08 Office Action, p. 4). The Applicants respectfully disagree.

Ogawa describes a training machine and method for physical exercise. (See Ogawa Abstract). Ogawa's machine includes a visual and audio display unit. (See Ogawa, col. 9 line 66 through col. 10 line 3; figs. 10 and 12). This display unit displays images that correspond to the status of the user. (See Ogawa, col. 10, lines 57-60). The display unit may include a display of several status factors, such as heart rate. (See Ogawa, fig 10). Ogawa also describes a system wherein the status of the user is linked to levels of a game. (See Ogawa, col. 10, line 55 through col. 12, line 11). In this embodiment, the user progresses through three different displayed

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images, which are each linked to certain status factors. These images are not alternately rendered. Rather, the images are rendered based on a current status of the user and no other basis. Thus, in Ogawa, any of the stored images may be rendered at any time depending on the current status. There is no alternating between different images, there is merely switching to a different image based on the current status. This rendering based on an actual status is not *“alternating the rendering of the first and second audio signals”* including *“(4) rendering the first audio signal to the user at least until the processor determines the parameter has achieved the first parameter value, [and] (5) rendering the second audio signal to the user at least until the processor determines the parameter has achieved the second parameter value”* as recited in claim 1. Thus, Applicants respectfully submit that claim 1 is patentable over McHugh in view of Ogawa. Because claims 2, 4-8, and 10-11 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1.

Independent claim 12 has been amended to recite, “alternatively rendering the first audio signal to the user at least until the processor determines the parameter has achieved the first parameter value and the second audio signal to the user at least until the processor determines the parameter has achieved the second parameter value.”

Applicants respectfully submit that claim 12 is allowable for at least the same reasons given above with respect to claim 1. Because claims 13-14 and 17 depend from, and therefore include all the limitations of claim 12, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 12.

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent Application No. 6,230,047 to McHugh (hereinafter “McHugh”) in view of U.S. Patent Application No. 6,852,068 to Ogawa (hereinafter “Ogawa”), and in further view of U.S. Patent Application No. 6,736,759 to Stubbs et al. (hereinafter “Stubbs”). (See 08/20/08 Office Action, p. 8-9).

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As discussed above, McHugh and Ogawa do not disclose the teachings of claim 1. Applicants respectfully submit that Stubbs does not cure the afore-mentioned defects of McHugh or Ogawa with respect to claim 1. Therefore, because claim 3 contains all the limitations of claim 1, Applicants respectfully submit that claim 3 is allowable for at least the same reasons as discussed with respect to claim 1 above.

Claim 9, 15, and 16 stand rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent Application No. 6,230,047 to McHugh (hereinafter "McHugh") in view of U.S. Patent Application No. 6,852,068 to Ogawa (hereinafter "Ogawa"), and in further view of U.S. Patent Application No. 5,986,200 to Curtin (hereinafter "Curtin"). (See 08/20/08 Office Action, p. 9-12).

As discussed above, McHugh and Ogawa do not disclose the teachings of claim 1 or claim 12. Applicants respectfully submit that Curtin does not cure the afore-mentioned defects of McHugh or Ogawa with respect to claim 1 or claim 12. Therefore, because claim 9 contains all the limitations of claim 1, Applicants respectfully submit that claim 9 is allowable for at least the same reasons as discussed with respect to claim 1 above. In addition, because claims 15 and 16 contain all the limitations of claim 12, Applicants respectfully submit that claims 15 and 16 are allowable for at least the same reasons as discussed with respect to claim 12 above.

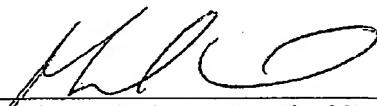
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CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the now pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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